

Panaji, 22nd April, 1976 (Vaisaka 2, 1898)

SERIES I No. 4



OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Labour and Information Department

Notification

1/399/76-LAB/657

Whereas the Lieutenant Governor of Goa, Daman and Diu is satisfied that it is necessary in the public interest that the Flour Milling Industry should be declared as Public Utility Service for the purpose of Industrial Disputes Act, 1947 (No. 14 of 1947).

Now, therefore, in exercise of the powers conferred under sub-clause (vi) of clause (n) of section 2 of the said Act, the Lieutenant Governor of Goa, Daman and Diu hereby declares the Flour Milling Industry to be Public Utility Service for the purposes of the said Act for a period of six months with effect from the date of publication of this Notification.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 14th April, 1976.

Finance Department (Revenue)

Notification

Fin(Rev)/2-35/15/75(D)

In exercise of the powers conferred by section 22 of the Goa, Daman and Diu Excise Duty Act, 1964 (5 of 1964), the Government of Goa, Daman and Diu hereby makes the following further amendments to the Goa, Daman and Diu Excise Duty Rules, 1964, namely:

1. *Short title and commencement.*—(1) These rules may be called the Goa, Daman and Diu Excise Duty (Twenty Second Amendment) Rules, 1976.

(2) They shall come into force at once.

2. *Amendment of rule 2.*—In rule 2 of the Goa, Daman and Diu Excise Duty Rules, 1964 (herein-

after called the "principal Rules"), clause (i) shall be deleted.

3. *Amendment of rules 43, 53 and 90.*—In rules 43, 53 and 90 of the principal Rules, the words "set forth in the Schedule" wherever they occur, the same shall be deleted.

4. *Amendment of rule 92.*—In rule 92 of the principal Rules, for the words "respective fee fixed in the Schedule", the word "fee" shall be substituted.

5. *Amendment of rule 99.*—In sub-rule (1) of rule 99 of the principal Rules—

(i) The words and colon "set forth in the Schedule:" shall be deleted;

(ii) For the comma appearing after the "licence fee", the full stop shall be substituted.

6. *Amendment of rule 121.*—The rule 121 of the principal Rules shall be deleted.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukhthankar, Under Secretary (Finance).

Panaji, 13th April, 1976.

Law and Judiciary Department

Notification

LD/1595/76

The following Central Act which was recently passed by the Parliament and assented to by the President of India on 11-2-76 and published in the Gazette of India Part II, Section 1 dated 12-2-76 is hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 3rd April, 1976.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 12th February, 1976

Magha 23, 1897 (Saka)

The following Act of Parliament received the assent of the President on the 11th February,

1976, and is hereby published for general information:—

The Equal Remuneration Act, 1976

No. 25 of 1976

[11th February, 1976]

An Act to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the Equal Remuneration Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date, not being later than three years from the passing of this Act, as the Central Government may, by notification, appoint and different dates may be appointed for different establishments or employments.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means,—

(i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oilfield or major port or any corporation established by or under a Central Act, the Central Government and

(ii) in relation to any other employment, the State Government;

(b) “commencement of this Act” means, in relation to an establishment or employment, the date on which this Act comes into force in respect of that establishment or employment;

(c) “employer” has the meaning assigned to it in clause (f) of section 2 of the Payment of Gratuity Act, 1972; 39 of 1972.

(d) “man” and “woman” mean male and female human beings, respectively, of any age;

(e) “notification” means a notification published in the Official Gazette;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “remuneration” means the basic wage or salary, and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express or implied, were fulfilled;

(h) “same work or work of a similar nature” means work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a

man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment;

(i) “worker” means a worker in any establishment or employment in respect of which this Act has come into force;

(j) words and expressions used in this Act and not defined but defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act.

14 of 1947.

3. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act, or in any instrument having effect under any law for the time being in force.

CHAPTER II

Payment of remuneration at equal rates to men and women workers and other matters

4. Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature.—(1) No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

(2) No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.

(3) Where, in an establishment or employment, the rates of remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex, then the higher (in cases where there are only two rates), or, as the case may be, the highest (in cases where there are more than two rates), of such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers:

Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Act.

5. No discrimination to be made while recruiting men and women workers.—On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature, make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force:

Provided that the provisions of this section shall not affect any priority or reservation for Scheduled Castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons:

in the matter of recruitment to the posts in an establishment or employment.

6. Advisory Committee.—(1) For the purpose of providing increasing employment opportunities for women, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extent to which women may be employed in such establishments or employments as the Central Government may, by notification, specify in this behalf.

(2) Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.

(3) In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of women for employment, as the case may be, the need for providing increasing employment opportunities for women, including part-time employment, and such other relevant factors as the Committee may think fit.

(4) The Advisory Committee shall regulate its own procedure.

(5) The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations, issue such directions in respect of employment of women workers, as the appropriate Government may think fit.

7. Power of appropriate Government to appoint authorities for hearing and deciding claims and complaints—(1) The appropriate Government may, by notification, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the purpose of hearing and deciding—

(a) complaints with regard to the contravention of any provision of this Act;

(b) claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature,

and may, by the same or subsequent notification, define the local limits within which each such authority shall exercise its jurisdiction.

(2) Every complaint or claim referred to in sub-section (1) shall be made in such manner as may be prescribed.

(3) If any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under sub-section (1).

(4) Where a complaint or claim is made to the authority appointed under sub-section (1), it may, after giving the applicant and the employer an opportunity of being heard, and after such inquiry as it may consider necessary, direct,—

(i) in the case of a claim arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature, that payment be made to the worker of the amount by which the wages payable to him exceed the amount actually paid;

(ii) in the case of complaint, that adequate steps be taken by the employer so as to ensure that there is no contravention of any provision of this Act.

(5) Every authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

5 of 1908.

2 of 1974.

(6) Any employer or worker aggrieved by any order made by an authority appointed under sub-section (1), on a complaint or claim may, within thirty days from the date of the order, prefer an appeal to such authority as the appropriate Government may, by notification, specify in this behalf, and that authority may, after hearing the appeal, confirm, modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

(7) The authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of thirty days but not thereafter.

(8) The provisions of sub-section (1) of section 33C of the Industrial Disputes Act, 1947, shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this section.

14 of 1947.

CHAPTER III

Miscellaneous

8. Duty of employers to maintain registers.—On and from the commencement of this Act, every employer shall maintain such registers and other documents in relation to the workers employed by him as may be prescribed.

9. Inspectors.—(1) The appropriate Government may, by notification, appoint such persons as it may think fit to be Inspectors for the purpose of making an investigation as to whether the provisions of this Act, or the rules made thereunder, are being complied with by employers, and may define the local limits within which an Inspector may make such investigation.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

12 of 1975.

(3) An Inspector may, at any place within the local limits of his jurisdiction,—

(a) enter, at any reasonable time, with such assistance as he thinks fit, any building, factory, premises or vessel;

(b) require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such documents;

(c) take, on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act are being, or have been, complied with;

(d) examine the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be, or to have been a worker in the establishment;

(e) make copies, or take extracts from, any register or other document maintained in relation to the establishment under this Act.

(4) Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

10. *Penalties.*—(1) If after the commencement of this Act, any employer, being required by or under the Act, so to do—

(a) omits or fails to maintain any register or other document in relation to workers employed by him, or

(b) omits or fails to produce any register, muster-roll or other document relating to the employment of workers, or

(c) omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment, or any worker, from giving evidence, or

(d) omits or refuses to give any information, he shall be punishable with fine which may extend to one thousand rupees.

(2) If, after the commencement of this Act, any employer—

(a) makes any recruitment in contravention of the provisions of this Act, or

(b) makes any payment of remuneration at unequal rates to men and women workers, for the same work or work of a similar nature, or

(c) makes any discrimination between men and women workers in contravention of the provisions of this Act, or

(d) omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of section 6,

he shall be punishable with fine which may extend to five thousand rupees.

(3) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine which may extend to five hundred rupees.

11. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was com-

mitted without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

12. *Cognizance and trial of offences.*—(1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint made with the sanction of the appropriate Government or an officer authorised by it in this behalf.

(3) No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made within three months from the date on which sanction is granted under this section.

13. *Power to make rules.*—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which complaint or claim referred to in sub-section (1) of section 7 shall be made;

(b) registers and other documents which an employer is required under section 8 to maintain in relation to the workers employed by him;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

14. *Power of Central Government to give directions.*—The Central Government may give directions:

to a State Government as to the carrying into execution of this Act in the State.

15. *Act not to apply in certain special cases.*— In so far as—

(a) the terms and conditions of a woman's employment are, in any respect, affected by compliance with the law regulating the employment of women, or

(b) any special treatment is accorded to women in connection with the birth, or expected birth, of a child,

then to that extent the requirement of equal treatment for men and women as mentioned in this Act shall not apply (but without prejudice to its operation as regards other matters), nor shall that requirement extend to requiring equal treatment as regards terms and conditions relating to retirement, marriage or death or to any provision made in connection with retirement, marriage or death.

16. *Power to make declaration.*— Where the appropriate Government is, on a consideration of all the circumstances of the case, satisfied that the differences in regard to the remuneration, or a particular species of remuneration, of men and women workers in any establishment or employment is based on a factor other than sex, it may, by notification, make a declaration to that effect, and any act of the employer attributable to such a difference shall not be deemed to be a contravention of any provision of this Act.

17. *Power to remove difficulties.*— If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification, make any order, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing the difficulty:

Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

18. *Repeal and saving.*— (1) The Equal Remuneration Ordinance, 1975 is hereby repealed. 45 of 1860.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed (including any notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force when such thing was done or action was taken.

K. K. SUNDARAM,
Secy. to the Govt. of India.

Notification

LD/511/76

The following notifications received from the Government of India, Ministry of Labour New Delhi, are hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 4th March, 1976.

GOVERNMENT OF INDIA
(BHARAT SARKAR)

MINISTRY OF LABOUR
(SHRAM MANTRALAYA)

New Delhi, the 19th December, 1975

Notification

S. O.— Whereas certain draft scheme to amend the Mormugao Dock Workers (Regulation of Employment) Scheme, 1965 was published as required by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948) at page 1345 of the Gazette of India, Part II, Section 3, sub-section (ii), dated the 29th March, 1975 under the notification of the Government of India in the Ministry of Shipping and Transport (Transport Wing) No. S. O. 992, dated the 19th March, 1975 inviting objections and suggestions from all persons likely to be affected thereby, till the expiry of a period of two months from the date of publication of the said notification in the Official Gazette;

And Whereas the said Gazette was made available to the public on the 14th April, 1975;

And Whereas objections and suggestions received from the public on the said draft have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, the Central Government hereby makes the following scheme, further to amend the Mormugao Dock Workers (Regulation of Employment) Scheme, 1965, namely:—

1. *Short title and commencement.*— (1) This Scheme may be called the Mormugao Dock Workers (Regulation of Employment) Third Amendment Scheme, 1975.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Mormugao Dock Workers (Regulation of Employment) Scheme, 1965, —

(i) in the first proviso to clause 6, for the words "rupees one thousand" the words "rupees one thousand two hundred and fifty" shall be substituted;

(ii) in item (j) of sub-clause (1) of clause 10, —

(a) in sub-item (i), for the words "rupees eight hundred", the words "rupees one thousand" shall be substituted;

(b) in sub-item (ii) for the words "rupees eight hundred", the words "rupees one thousand" shall be substituted;

(iii) in item (f) of Clause 11, for the words "five hundred and seventy five rupees", the words "rupees seven hundred and fifty" shall be substituted;

(iv) in the proviso to item (g) of clause 12, for the letters and figures "Rs. 300", the words "rupees four hundred" shall be substituted.

[No. S-70025/1/74-IX-P&D/LD-IX]

Sd/-

V. SANKARANLINGAM

Under Secretary to the Government of India.

GOVERNMENT OF INDIA
MINISTRY OF INDUSTRY AND CIVIL SUPPLIES
(Department of Industrial Development)

(Central Boilers Board)

New Delhi, dated the 27, Nov. 1975

Notification

G. S. R.—The following draft of certain regulations further to amend the Indian Boiler Regulation, 1950, which the Central Boilers Board proposes to make in exercise of the powers conferred by section 28 of the Indian Boilers Act, 1923 (5 of 1923), is hereby published, as required by sub-section (1) of Section 31 of the said Act, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after three months from the date of publication of this notification in the Official Gazette.

Any objections or suggestions which may be received from any person with respect to the said draft within the period so specified will be considered by the Central Boilers Board. Such objections or suggestions should be addressed to the Secretary, Central Boilers Board, Ministry of Industry & Civil Supplies, Department of Industrial Development, Udyog Bhavan, New Delhi.

DRAFT REGULATIONS

1. These Regulations may be called Indian Boiler (Amendment) Regulations, 1975.

2. In Sub-Clause (2) of clause (b) of regulation 365 of the Indian Boiler Regulations, 1950 (hereinafter referred to as the said Regulations), for the first paragraph, the following paragraph shall be substituted namely:—

"Each dished end shall be made from one rolled plate, If this is impracticable, owing to the large diameter, the dished end plate may be made from two plates fusion butt welded together and in such cases the line of weld shall be parallel to the horizontal axis of the vessels and the weld shall be radio-graphed after forming. The shape of Dished End shall conform to the requirements of Regulations 275. Dishing and peripheral flanging shall be done by machine. Cold flanging shall not be adopted. All plates which have been dished, flanged or locally heated shall afterwards be efficiently heat treated for the purpose of relieving internal stresses, unless during the last stage of manufacture, they have been uniformly heated throughout to a suitable tempreature. Care shall be taken to see that the flanges are cylindrical of good surface and free from local irregularities".

3. After sub-regulation (d) of regulation 374 of the said Regulations the following sub-regulation shall be inserted, namely:—

"(e) Hydraulic testing of butt welded and socket welded joints shall be conducted either at maker's work or at user's premises on completion of fabrication of pipes by the inspecting authority".

4. In regulation 384 of the said Regulations, for the words "feet" and "figure" the words "metres" and "number" shall respectively be substituted.

5. For regulation 355 of the said Regulations, the following regulations shall be substituted, namely:—

"385. *Registration fee.*—The fee required to accompany as application under sub-section (1) of section 7 of the Act shall be:—

	Rs.
For Boiler Rating not exceeding 10 ...	105
For Boiler Rating exceeding 10 but not exceeding 30	130
For Boiler Rating exceeding 30 but not exceeding 50	150
For Boiler Rating exceeding 50 but not exceeding 70	180
For Boiler Rating exceeding 70 but not exceeding 90	210
For Boiler Rating exceeding 90 but not exceeding 110	240
For Boiler Rating exceeding 110 but not exceeding 200	270
For Boiler Rating exceeding 200 but not exceeding 400	315
For Boiler Rating exceeding 400 but not exceeding 600	360
For Boiler Rating exceeding 600 but not exceeding 800	405
For Boiler Rating exceeding 800 but not exceeding 1000	450
For Boiler Rating exceeding 1000 but not exceeding 1200	540
For Boiler Rating exceeding 1200 but not exceeding 1400	600
For Boiler Rating exceeding 1400 but not exceeding 1600	675
For Boiler Rating exceeding 1600 but not exceeding 1800	750
For Boiler Rating exceeding 1800 but not exceeding 2000	825
For Boiler Rating exceeding 2000 but not exceeding 2200	900
For Boiler Rating exceeding 2200 but not exceeding 2400	975
For Boiler Rating exceeding 2400 but not exceeding 2600	1050
For Boiler Rating exceeding 2600 but not exceeding 2800	1125
For Boiler Rating exceeding 2800 but not exceeding 3000	1200
Above 3000 for every 200 or part thereof an additional fee of Rs. 40/- shall be charged.	

Provided that the Chief Inspector may direct that no fee shall be payable in respect of a fresh application made in pursuance of sub-section (2) of section 14 of the Act".

6. For regulation 533 of the said Regulations, the following regulation shall be substituted :—

"533. Registration fee.— An application for registration of economiser shall be accompanied by appropriate fee as specified below:—

	Rs.
For Economiser rating not exceeding 50	75
For Economiser rating exceeding 50 but not exceeding 100	90
For Economiser rating exceeding 100 but not exceeding 150	150
For Economiser rating exceeding 150 but not exceeding 200	120
For Economiser rating exceeding 200 but not exceeding 250	135
For Economiser rating exceeding 250 but not exceeding 300	150
For Economiser rating exceeding 300 but not exceeding 350	165
For Economiser rating exceeding 350 but not exceeding 400	180
For Economiser rating exceeding 400 but not exceeding 450.....	195
For Economiser rating exceeding 450 but not exceeding 500	210
For Economiser rating exceeding 500 but not exceeding 600	225
For Economiser rating exceeding 600 but not exceeding 700	240
For Economiser rating exceeding 700 but not exceeding 800	255
For Economiser rating exceeding 800 but not exceeding 900	270
For Economiser rating exceeding 900 but not exceeding 1000	285
And above 1000 rating for every 200 or parts thereof, an additional fee of Rs. 15/- shall be charged.	

7. For sub-regulation (b) of regulation 395 of the said Regulations, the following sub-regulation shall be substituted, namely:—

"(b) (i) The fees for examination of plans and the particulars of material, design and construction of steam pipes before the commencement of manufacture of the steam pipes shall be at the rate of Rs. 10/- for 30 metres of piping or part thereof inclusive of all fitting excepting the fitting like de-superheaters, steam receivers, feed heaters and separately fired superheaters. For any fittings like desuperheaters, steam receivers and separators, the fees shall be Rs. 50.00 for each such fittings.

(ii) The fees for examination of lay out plans of steam pipes shall be Rs. 5/- per metre of

piping or part thereof inclusive of all fittings, excepting fittings like de-superheaters, steam receivers, feed heaters and separately fired superheaters. For any fittings like de-superheaters, steam receivers and separators, the fee shall be Rs. 50.00 for each such fitting".

8. In regulation 395A of the said Regulations,—

(a) in clause (i) of sub-regulation (1), for the word "three", the word "four" shall be substituted;

(b) in sub-regulation (3), for the word "twenty" the word "twenty five" shall be substituted;

(c) after sub-regulation (3), the following sub-regulation shall be inserted, namely:—

"(4) Fees for inspection of boiler at the site of construction shall be charged at the rate of four times the registration fee".

9. After regulation 395A of the said Regulations, the following regulations shall be inserted, namely:—

"395B. Fees for inspection of pipes at the sites of construction shall be charged as under:—

(a) for pipes of nominal bore not exceeding 100 mm inclusive of all fittings at site— Rs. 100/- for 30 metres of piping or part thereof;

(b) for pipes of nominal bore exceeding 100 mm inclusive of all fittings— Rs. 250/- for 30 metres of piping or part thereof.

395C. Fees for inspection of Valves shall be charged as under:—

(1) The Inspection fee for valves shall be charged as under:—

(a) upto and including 25 mm for a batch of 100 or part thereof — Rs. 225/-;

(b) over 25 mm and upto and including 50 mm for a batch of 50 or part thereof — Rs. 225/-;

(c) over 50 mm and upto and including 100 mm for a batch of 25 or part thereof — Rs. 225/-;

(d) over 100 mm and upto and including 250 mm for a batch of 10 or part thereof — Rs. 225/-;

(e) over 250 mm for a batch of 2 or part thereof — Rs. 225/-.

(2) Fees for inspection of flanges shall be charged as under:—

(i) for forged and Caste flanges, the fees shall be charged at the rates specified for valves under sub-regulation (1);

(ii) for plate flanges the fees shall be charged at half the rate as charged for forged and cast flanges".

10. In regulation 532 of the said Regulations, for the word "feet" the word "metres" shall be substituted.

11. For regulation 534B of the said Regulations, the following regulation shall be substituted, namely:—

“534B. Submission of plans of Feed Pipes:—

(i) The fees for scrutiny of plans and particulars of the material, design and construction of feed pipes, before commencement of manufacture of the feed pipes shall be at the rate of Rs. 10/- per 30 metres of piping or part thereof inclusive of every fitting excepting fittings like feed water heaters. For any fitting like Feed Water heater the fee shall be equal to the registration fee of the boiler to which the feed pipe is attached subject to a maximum of Rs. 500/-.

(ii) The fees for scrutiny of lay-out plans of feed pipes shall be Rs. 5 for 30 metres of piping or part thereof exclusive of fittings like Feed Water heater. For any fittings like Feed Water heater, the fee shall be Rs. 50.00 for each such fittings”.

[No. 13(8)/72-Boilers]

Sd/-

S. C. DEY

Secretary, Central Boilers Board.

◆◆◆
Administrative Tribunal

Notification

LD/AT/Reg/71-76

In exercise of the powers conferred by Section 14 of the G. D. D. Administrative Tribunal Act, 1965 and with the previous sanction of the Government of Goa, Daman and Diu, the Chairman of Administrative Tribunal hereby makes the following amendment to the Goa, Daman and Diu Administrative Tribunal Regulation, 1971.

1. *Short Title and Commencement.*—(a) These regulations may be called the Goa, Daman and Diu Administrative Tribunal (Second Amendment) Regulations, 1976.

(2) They shall come into force with effect from 1st May, 1976.

2. *Amendment of Regulation 2.*—For Regulation 2 of the Goa, Daman and Diu Administrative Tribunal Regulation, 1971 the following regulation shall be substituted:

“2. The members of the Tribunal shall sit in three Benches, namely:—

BENCH No. I

BENCH No. II

and

BENCH No. III

K. C. D. Gangwani, Chairman, Administrative Tribunal.

Panaji, 2nd April, 1976.

Notification

LD/1668/76

The following order which was recently promulgated by the President of India on 13-3-76 is hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 13th April, 1976.

MINISTRY OF HOME AFFAIRS

Order

New Delhi, the 13th March 1976

S. O. 192(E).—In exercise of the powers conferred by sub-rule (1) of rule 48 of the Defence and Internal Security of India Rules, 1971, the Central Government hereby makes the following further amendments in the Order No. S.O. 275 (E), dated the 26th June, 1975, namely:—

Amendments

In clause (1) of the said Order—

(i) in sub-clause (h), the word “or” shall be inserted at the end;

(ii) after sub-clause (h), the following sub-clause shall be inserted, namely:—

“(i) the Proclamation, in relation to the State of Gujarat, issued on the 12th day of March, 1976, under article 356 of the Constitution, by the President.”.

By Order and in the name of President.

◆◆◆
[No. II/14011/2/75-S&P(DIV)]

C. V. NARASIMHAN, Jt. Secy.

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/B/7/913/76

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 20th April, 1976 is hereby published for general information in pursuance of the provisions of Rule 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Bill, 1976

(Bill No. 18 of 1976)

A

BILL

further to amend the Goa, Daman and Diu Agricultural Tenancy Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (7 of 1964) (hereinafter referred to as the principal Act),—

(a) for clause (1A), the following clause shall be substituted, namely:—

‘(1A) “agriculture” includes horticulture and raising of food crops, grass or garden produce, but does not include allied pursuits;’;

(b) after clause (7) and the *Explanations* thereto, the following clauses shall be inserted, namely:—

‘(7A) “garden” means land used primarily for growing coconut trees, arecanut trees, cashewnut trees or mango trees;

‘(7B) “garden produce” means any produce from a garden;’;

(c) for clause (11), the following clause shall be substituted, namely:—

‘(11) “land” means land which is used for agriculture or which is capable of being so used, but is left fallow, and includes farm buildings appurtenant to such land:

Provided that nothing in this clause shall apply to land which is in the possession of a Mundkar.

Explanation.—For the purposes of this clause, the expression “Mundkar” shall have the meaning assigned to it in clause (p) of section 2 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (1 of 1976);’;

(d) after clause (19), the following clause shall be inserted, namely:—

‘(19A) “purchase price” means the price determined by the Mamlatdar under section 18C;’;

(e) after clause (23), the following clause shall be inserted, namely:—

‘(23A) “tillers’ day” means the date of introduction of the Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Bill, 1976, in the Legislative Assembly;’.

3. *Insertion of new Chapter II A.*—After Chapter II of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER II A

Special rights and privileges of tenants

18A. *Tenants deemed to have purchased lands on tillers’ day.*—(1) On the tillers’ day, every tenant shall, subject to the other provisions of this Act, be deemed to have purchased from his landlord the land held by him as a tenant and such land shall vest in him free from all encumbrances subsisting on the said day.

(2) Where a tenant, on account of his eviction from the land by the landlord before the tillers’ day, is not in possession of the land on the said day, but has made or makes an application for possession of the land under section 18 within the period specified therein, then, if the application is allowed by the Mamlatdar or, as the case may be, in appeal by the Collector or in revision by the Administrative

Tribunal, he shall be deemed to have purchased the land on the day on which the final order allowing the application is passed.

(3) Where a tenant referred to in sub-section (2) has not made an application for possession within the period specified under section 18 or the application made by him is finally rejected under this Act, and the land is held by any other person as tenant on the expiry of the said period or on the date of the final rejection of the application, such other person shall be deemed to have purchased the land on the date of the expiry of the said period or, as the case may be, on the date of the final rejection of the application.

(4) If a tenant is not in possession of the land on the tillers’ day on account of his being dispossessed otherwise than in the manner provided in section 11 and the land is,—

(a) in possession of the landlord or his successor in interest; and

(b) not put to a non-agricultural use, the Mamlatdar, shall notwithstanding anything contained in this Act,

either *suo motu* or on the application of the tenant, hold an inquiry and direct that such land shall be taken from the possession of the landlord or, as the case may be, his successor in interest and shall be restored to the tenant and the provisions of this Chapter shall, in so far as they may be applicable, apply thereto, subject to the modification that the tenant shall be deemed to have purchased the land on the date on which the land is restored to him:

Provided that the tenant shall not be entitled to restoration under this sub-section unless he undertakes to cultivate the land personally.

Explanation.—In this sub-section, “successor-in-interest” means a person who acquires the interest by testamentary disposition or devolution on death.

(5) In respect of the land deemed to have been purchased by a tenant under sub-section (1),—

(a) the tenant-purchaser shall be liable to pay to the former landlord the purchase price; and

(b) the tenant-purchaser shall be liable to pay to the Government, the dues, if any, from the tillers’ day.

18B. *Right of tenant to purchase land where he is a minor, etc.*—(1) Notwithstanding anything contained in section 18A, where the tenant is a minor or a widow or a person subject to mental or physical disability or a serving member of the Defence Forces, the right to purchase land under that section may be exercised—

(a) by the minor within one year from the date on which he attains majority;

(b) by the successor in title of the widow within one year from the date on which her interest in the land ceases to exist;

(c) within one year from the date on which the mental or physical disability of the tenant ceases to exist;

(d) within one year from the date on which the tenant ceases to be a serving member of the Defence Forces:

Provided that where a person of any such category is a member of a joint family, the provisions

of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section, unless before the tillers' day the share of such person in the joint family has been separated by metes and bounds, and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated having regard to the area, assessment, classification and the value of the land, in the same proportion as the share of that person in the entire joint family property.

(2) A tenant desirous of exercising the right conferred on him under sub-section (1) shall give an intimation in that behalf to the landlord and the Mamlatdar within whose jurisdiction the land is situated, in the prescribed manner within the period specified in that sub-section.

(3) The provisions of section 18A and sections 18C to 18I shall, so far as may be applicable, apply to such purchase.

18C. Mamlatdar to issue notices and determine price of land to be paid by tenants. — (1) As soon as may be after the tillers' day, the Mamlatdar shall publish or cause to be published a public notice in the prescribed form in the Official Gazette and also in such other manner as may be prescribed calling upon —

- (a) all tenants who under section 18A are deemed to have purchased the lands;
- (b) all landlords of such lands; and
- (c) all other persons interested therein, to appear before him on the date specified in the notice.

(2) The Mamlatdar shall issue a notice individually to each such tenant, landlord and also to the other persons referred to in clause (c) of sub-section (1), calling upon each of them to appear before him on the date specified in the public notice.

(3) The Mamlatdar shall record in the prescribed manner the statement of the tenant whether he is or is not willing to purchase the land held by him as a tenant.

(4) Where any tenant fails to appear or makes a statement that he is not willing to purchase the land, the Mamlatdar shall, by an order in writing declare that such tenant is not willing to purchase the land and that the purchase is ineffective:

Provided that if such order is passed in default of the appearance of any party, the Mamlatdar shall communicate such order to the parties and any party on whose default the order was passed may within sixty days from the date on which the order was communicated to him apply for the review of the same.

(5) If a tenant is willing to purchase, the Mamlatdar shall, after giving an opportunity to the tenant and the landlord and all other persons interested in such land to be heard and after holding an inquiry determine the purchase price for such land in accordance with the provisions of section 18D.

(6) In the case of a tenant who is deemed to have purchased the land on a date subsequent to the tillers' day, the Mamlatdar shall, as soon as may be after such day, determine the price of the land.

18D. Purchase price payable to the landlords. — (1) The purchase price payable by a tenant to the landlord in relation to the land which has been deemed to have been purchased by the tenant under section 18A shall be an amount equivalent to fifteen times the net average annual income of the land for the three years immediately preceding the tillers' day or the amount indicated in column 2 of the Table below in respect of the categories of land specified in the corresponding entry in column 1 thereof, whichever is lower.

TABLE

Category of land	Purchase price (in rupees) per hectare	
	1	2
<i>Garden consisting primarily of:</i>		
a) Coconut trees		4,000
b) Arecanut trees		3,000
c) Mango trees		2,500
d) Cashew trees		1,600
<i>Rice land:</i>		
a) Kher		4,000
b) Khazan		3,600
c) Morod		1,600
<i>Wet land where sugarcane is cultivated:</i>		
		2,500

(2) For the purposes of determining the net average annual income of a land for the three years immediately preceding the tillers' day, the Mamlatdar shall take into account the cost of the seeds, fertilisers, labour involved and such other matters as may be prescribed.

18E. Mode of payment of purchase price by tenant. — (1) On the determination of the purchase price by the Mamlatdar under section 18C, the tenant shall deposit the purchase price with the Mamlatdar in the manner provided in this section.

(2) The tenant shall have the option to deposit the purchase price either in lumpsum or in ten equal annual instalments.

(3) The first instalment of the purchase price or where the purchase price is payable in a lumpsum under sub-section (2), the lumpsum, shall be paid by the tenant within a period of six months from the date of passing of the order of the Mamlatdar under section 18C.

(4) The second or subsequent instalments of the purchase price shall be paid within a period of one year from the date on which the previous instalment was due.

(5) Where the lumpsum payment or any instalment of the purchase price has not been deposited on the due date, the amount in default shall carry interest at the rate of six per cent per annum.

18F. Amount of purchase price to be applied towards satisfaction of debts. — (1) The Mamlatdar

shall in an inquiry held under section 18C, determine any encumbrances lawfully subsisting on the land on the tillers' day.

(2) If the total amount of the encumbrances is less than the purchase price determined under that section,—

(i) where the purchase price is paid in lumpsum, it shall be deducted from the purchase price and the balance paid to the former landlord;

(ii) where the purchase price is made payable in instalments, the Mamlatdar shall deduct such amount from such instalments towards the payment of such encumbrances:

Provided that where under any agreement, award, decree or order of a court or under any law, the amount of the encumbrances is recoverable in instalments, the Mamlatdar shall deduct such amount as he deems reasonable from the instalments so payable.

(3) If the total amount of the encumbrances is more than the amount so determined, the purchase price in lumpsum or the instalments, as the case may be, shall be distributed in the order of priority and if any person has a right to receive maintenance or alimony from the profits of the land the Mamlatdar shall also make deductions for payment out of the purchase price.

(4) Nothing in this section shall affect the rights of the holder of any such encumbrance to proceed against the former landlord in any other manner or under any other law for the time being in force.

18G. Recovery of purchase price as arrears of land revenue.—If the tenant-purchaser makes a default in the payment of the whole or part of the purchase price, the Mamlatdar shall, on an application made in this behalf by the landlord proceed to recover such sum which is in arrears on the date of application, together with any interest due as arrears of land revenue.

18H. Purchase to be ineffective on tenant-purchaser's failure to pay purchase price.—(1) On the deposit of the purchase price in lumpsum or of the first instalment of such price, the Mamlatdar shall issue a certificate of purchase in the prescribed form to the tenant-purchaser in respect of the land and such certificate shall, subject to sub-section (2), be conclusive evidence of the purchase.

(2) In the event of failure of recovery of purchase price as arrears of land revenue under section 18G, the purchase shall be ineffective and the land shall be at the disposal of the Mamlatdar under section 18J and any amount deposited by such tenant-purchaser towards the price of the land shall be refunded to him.

18I. Right of tenant whose tenancy has been created after tillers' day.—(1) Notwithstanding any agreement or usage to the contrary, in respect of any tenancy created after the tillers' day, a tenant shall be entitled within one year from the commencement of such tenancy to purchase from the landlord the land held by him.

(2) The provisions of this Chapter shall in so far as may be applicable, apply to the purchase of the land by a tenant under sub-section (1).

18J. Power of Mamlatdar to resume and dispose of land not purchased by the tenant.—(1) Where the purchase of any land by the tenant under section 18A becomes ineffective under section 18C or section 18H or where a tenant fails to exercise the right to purchase the land held by him within the specified period under section 18B, the Mamlatdar may, *suo motu* or on an application made in this behalf, and in cases other than those cases in which the purchase has become ineffective by reason of section 18C or section 18H, after holding a formal inquiry, direct that the land or part thereof shall be disposed of in the manner provided in sub-section (2).

(2) The Mamlatdar shall make an order directing that the land or part thereof, referred to in sub-section (1) shall be disposed of by sale to any person in the following order of priority:

(i) 75 per cent of such land shall be disposed of by sale to persons belonging to the Scheduled Castes and Scheduled Tribes;

(ii) the land remaining after disposal in the manner provided in clause (i) shall be disposed of by sale in the following order of priority, namely:—

(a) serving member of the Defence Forces or an ex-serviceman or a freedom fighter, who agrees to cultivate the land personally;

(b) agricultural labourers;

(c) landless persons;

(d) a co-operative farming society registered as such under the Maharashtra Co-operative Societies Act, 1960, as in force in the Union Territory of Goa, Daman and Diu.

Explanation I.—Where the Mamlatdar has to select under this sub-section one or more persons having the same order of priority, preference shall be given to a person residing in the village in which the land is situated. In the event of there being more than one applicant having the same priority, the land shall be disposed of by sale, by drawing lots. The maximum area of the land that shall be sold to an individual shall be equivalent to one "economic holding" as defined in clause (e) of rule 2 of the Goa, Daman and Diu Land Revenue (Disposal of Government Lands) Rules, 1971.

Explanation II.—For the purposes of this sub-section, "freedom fighter" means a person who has, —

(a) suffered imprisonment or detention for a period of not less than six months; or

(b) become permanently incapacitated as a result of any firing or lathi charge; or

(c) lost his job or means of livelihood or the whole or part of any of his property, by reason of his participation in the national movement for the liberation of Goa, Daman and Diu.

(3) Where any land is disposed of under sub-section (2), the Mamlatdar shall determine the price of the land in accordance with the provisions of section 18C and the price so determined shall be paid in accordance with the provisions of section 18E.

(4) Where any land or portion thereof is offered for sale under sub-section (2), but no person comes forward to purchase such land or portion, as the case may be, it shall vest in the Government free from all encumbrances subsisting on the tillers' day and the purchase price payable by the Government to the landlord in respect of the land so vested in the Government shall be paid in cash.

18K. Restrictions on transfers of land purchased under this Chapter. — No land purchased by a tenant under this Chapter shall be transferred by sale, gift, exchange, mortgage, lease or assignment without the previous sanction of the Mamlatdar:

Provided that no such sanction shall be necessary where the land is to be mortgaged in favour of the Government or a co-operative society for the purpose of a loan for effecting any improvement of such land.

18L. Power to make rules. — (1) The Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for —

(a) the manner in which the tenant should intimate the landlord and the Mamlatdar under sub-section (2) of section 18B;

(b) the form of public notice and the manner in which it is to be published under sub-section (1) of section 18C;

(c) any other matter which is required to be prescribed.”.

4. Omission of Chapter III. — Chapter III of the principal Act shall be omitted.

5. Amendment of section 49. — In sub-section (1) of section 49 of the principal Act, after the words “From every order”, the brackets and words “(including an order passed under Chapter II A),” shall be inserted.

6. Repeal of Act 11 of 1971. — The Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Areacanut Gardens) Act, 1971, is hereby repealed.

Note on delegated legislation

Clause 18L of the Bill empowers the Government to frame rules for giving effect to the provisions of the Bill. This delegation is of normal character.

Financial Memorandum

The Bill involves no financial expenditure for implementing the provisions of the Bill as the existing official machinery would be entrusted with the work of implementation of the Bill. However, under clause 18J (4) the Government will have to pay as compensation the purchase price in respect of lands vested in it. The expenditure that may have to be incurred by the Government on this account cannot be envisaged at this stage.

Statement of objects and reasons

The present Bill is an amendment to the Goa, Daman and Diu Agricultural Tenancy Act, 1964. It seeks to confer ownership rights on cultivating tenants. This is a major step towards Land Reforms.

Under the Bill the ownership rights are being sought to be conferred on the tenants from the date of introduction of this Bill in the Assembly. Under the Bill all tenants, including the tenants of garden lands, would be entitled to conferment of ownership rights on payment of a “purchase price”.

The Bill provides for payment of purchase price by the tenants either in lump sum or in ten equal annual instalments. The Bill also provides for recovery of the purchase price as arrears of land revenue in case if the tenant purchaser fails to pay the purchase price.

The Bill is based on similar legislation which is in force in the neighbouring State of Maharashtra.

By this measure we are trying to catch up with the rest of the country within 15 years of liberation of this territory.

Panaji,
19th April, 1976.

PRATAPSING RANE
Minister for Revenue

Assembly Hall,
Panaji,
20th April, 1976.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu.

(Annexure to Bill No. 18 of 1976)

The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Bill, 1976

The Goa, Daman and Diu Agricultural Tenancy Act, 1964
(Act No. 7 of 1964)

2. Definitions. — In this Act, unless there is anything repugnant to the subject or context —

(1)

(1A) «agriculture» with its grammatical variations and cognate expressions, includes the raising of food crops like paddy, wheat, pulses, millets and vegetables and of sugar cane and ground nut but, save as otherwise expressly provided by or under sub-section (1) of section 3, does not include the raising of produce from fruit bearing trees including coconut, arecanut, cashew, or mango;

(11) (i) «land» means land which is used for agricultural purposes or which is so used but is left fallow, and includes the sites of farm buildings appurtenant to such land;

(ii) «Khajan land» means low land situated near creeks or riversides;

(iii) «Ker land» means land having adequate irrigation or drainage facilities;

(iv) «morod land» means any other land.

Provided that in case of doubt as to the category of any particular land, the matter shall be referred to the Tribunal whose decision shall be final;

CHAPTER III Resumption by landlord

19. Application of this chapter. — The provisions of this Chapter shall come into force only on a date to be fixed specially by notification, which shall not be earlier than the date of completion of survey and settlement of agricultural land in the particular area, in pursuance of the provisions of this Act or any other law;

Provided that where the landlord is able to furnish adequate proof to the satisfaction of the Mamlatdar as to his ownership

and the extent, identity and other relevant particulars of the land and where the other conditions prescribed by or under this Act for resumption of land for personal cultivation are satisfied, the Mamlatdar may authorise resumption.

20. *Resumption of land for personal cultivation*—(1) Notwithstanding anything contained in the other provisions of this Act, but subject to the provisions of this chapter, a landlord may, in the manner provided in sub-section (2), terminate the tenancy of any land if the landlord genuinely requires the land for cultivating it personally.

(2) Where the landlord proposes to act under sub-section (1) he shall give a notice to the tenant in writing, stating the purpose for which the landlord requires the land and shall, save as otherwise provided in sub-section (3), serve the notice on the tenant on or before a date to be notified in this behalf by the Government. A copy of such notice shall, at the same time, be sent to the Mamlatdar. An application for possession shall be made to the Mamlatdar within ninety days from the date aforesaid and the Mamlatdar may, after being satisfied as to the genuineness, pass orders authorising the termination of tenancy and eviction of the tenant.

(3) Where the landlord is a minor, or a widow with a life interest or a person serving in the Defence Forces or a person subject to any physical or mental disability, then, if he has not given a notice and made an application as required by sub-section (2), such notice may be given and such application may be made—

- (a) by the landlord within one year from the date on which—
 - (i) in the case of a minor, he attains majority;
 - (ii) in the case of a person serving in the Defence Forces, he ceases to serve in such Forces, and
 - (iii) in the case of a person subject to physical or mental disability, he ceases to be so subject; and
- (b) in the case of widow with a life interest, by the successor in title within one year from the date on which the widow's interest in land ceases to exist:

Provided that where land is held by two or more joint holders, the provisions of this sub-section shall not apply, if at least one joint holder is outside the categories specified in this sub-section.

Provided further that in cases coming under sub-clause (ii) of clause (a), the provisions of sub-sections (4) and (5) shall not apply.

(4) The landlord's right to terminate the tenancy of any tenant under sub-section (1) shall be subject to the following conditions—

- (a) the landlord or a member of his family must reside in the village in which the land is situated or in a village within 7 kilometres thereof, during the major portion of any agricultural season;
- (b) he shall not be entitled to resume more than 2 hectares of paddy land in the case of Khajan or Ker lands and 4 hectares in the case of any other land;
- (c) the landlord is not cultivating any other land;
- (d) the income by the cultivation of the land he seeks to resume is his main or principal source of income for his maintenance; and
- (e) if more tenancies than one are held under the same landlord, than the landlord shall be competent to terminate only the tenancy or tenancies which are the shortest in point of duration.

Explanation.—For the removal of doubt it is hereby declared that the condition in clause (c) shall not apply where the extent of land, if any, already under the personal cultivation of the landlord is less than the ceiling specified in clause (b) and the area sought to be resumed does not exceed what is required to make up such ceiling.

(5) For the purposes of this section all partitions of property between co-owners, joint tenants or co-parceners, and all transfers of property made by the owner of any property

on or after the 28th July, 1964, shall be ignored and deemed not to exist, unless such partition or transfer is approved by the Tribunal.

(6) No tenancy can be terminated under this section—

(a) in such manner as will result in leaving with a tenant, after termination, less than half the area of the land leased to him, or

(b) if the tenant has become a member of a co-operative farming society, so long as he continues to be such member.

(7) If a landlord who resumes any land for personal cultivation under the foregoing provisions fails to cultivate the land within one year from the date of such resumption he shall, within the prescribed time, restore possession of the land to the tenant who was cultivating the land immediately before such resumption.

(8) If, within the prescribed time, the tenant makes an application to the Mamlatdar and satisfies him that the landlord has failed to comply with the provisions of sub-section (7), the tenant shall be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required under that sub-section.

(9) If, in consequence of the termination of tenancy under the foregoing provisions, any part of the land leased is left with the tenant, the rent of the land so left shall be apportioned in the prescribed manner in proportion to the area of such land.

(10) The tenancy of any land left with the tenant after the termination of the tenancy for personal cultivation, shall not, at any time, afterwards be liable to termination again on the ground that the landlord genuinely requires the land for personal cultivation.

21. *Reservation for non-agricultural purposes*.—A landlord may terminate the tenancy of any tenant and reserve the land for any non-agricultural purposes, if he is permitted to do so by the Government. Thereupon, the provisions of the foregoing sections of this chapter shall *mutatis mutandis* apply as if the landlord resumes the land for personal cultivation.

22. *Special rules*.—Without prejudice to the generality of sub-section (1) of section 61 but subject to sub-section (2) thereof, the Government may make rules for—

- (i) the manner of conducting enquiries into application for possession of land made under this chapter;
- (ii) the selection of lands for taking possession;
- (iii) the exchange or consolidation of fragments to secure as far as possible a contiguous area to the landlord or the tenant;
- (iv) the time when the termination of tenancy will take effect; and
- (v) any other matter as may be considered necessary for giving effect to the provisions of this chapter, prescribing the powers which may be exercised by any original, appellate or revisional authority in disposing of such applications and all connected and incidental proceedings.

Explanation.—In this section the expression «fragment» means such area as may be prescribed.

49. *Appeals*.—(1) From every order other than an interim order passed by the Mamlatdar or the Tribunal under this Act, an appeal shall lie to the Collector and the orders of the Collector on such appeal shall be final subject to revision, if any, by the Administrative Tribunal.

(2) From every original order other than an interim order passed by the Collector an appeal shall lie to the Administrative Tribunal and the order of Administrative Tribunal on such appeal shall be final.